



REQUEST FOR PROPOSAL

for

ADMINISTRATIVE LAW JUDGE FOR FISCAL YEARS 2016, 2017, and 2018

No. CSC-RFP-16-001

Issue Date: Monday, January 11, 2016

Deadline for Submission: Monday, February 1, 2016, no later than 12:00 PM
Chamorro Standard Time (Guam Time)

Place of Submission: Civil Service Commission
MVP Phase II Sinajana
777 Rte. 4 Suite 107
Hagatna, Guam 96910

PUBLIC ANNOUNCEMENT

This Advertisement is paid for by the Civil Service Commission

REQUEST FOR PROPOSAL No. CSC-RFP-16-001

ADMINISTRATIVE LAW JUDGE

FOR FISCAL YEARS 2016, 2017, and 2018

The Civil Service Commission (CSC) is soliciting proposals from qualified attorneys or law firms to form a pool of attorneys to serve as administrative law judges to the CSC for fiscal years (FY) 2016, 2017, and 2018 with the option to renew for up to three additional one-year terms. The work shall consist primarily of conducting hearings and administrative trials, including generating a complete report of findings of fact for the CSC to review.

Request for Proposal (RFP) packages may be obtained at the CSC, in Sinajana, Guam, between 8:00 a.m. and 5:00 p.m., from Monday to Friday, excluding holidays. The RFP may also be downloaded at the CSC website at csc.guam.gov. **Deadline for submission of all proposals is 12:00 pm Chamorro Standard Time (Guam Time), February 1, 2016.** All proposals must be submitted to the attention of: Executive Director Alberto A. Lamorena V.

The CSC, with the written approval of the Executive Director, reserves the right to reject any or all proposals, solicit new proposals, waive minor informalities or irregularities or award in whole or in part.

All questions regarding the proposal should be made in writing and directed to Administrative Counsel John G. Nowakowski via facsimile at 647-1867 or e-mail at csc.document.filing@csc.guam.gov. Except to the above persons named, direct or indirect contact with CSC Management or Staff or any person participating in the selection process is prohibited.

/s/ Alberto A. Lamorena V
Executive Director

TABLE OF CONTENTS

I. INTRODUCTION.....	2
II. SUBMISSION AND EVALUATION OF PROPOSAL	4
III. SCOPE OF SERVICES FOR ADMINISTRATIVE LAW JUDGE	12
IV. GENERAL TERMS AND CONDITIONS	13
V. AFFIDAVITS	
1. NON-COLLUSION AFFIDAVIT	19
2. SPECIAL PROVISIONS AFFIDAVIT.....	22

I. INTRODUCTION

BACKGROUND:

The Civil Service Commission was established by the Organic Act of Guam §1422c, and created in 1967 by P.L. 9-86, re-established in 1982 by P.L. 16-23, (Civil Service Reform Act), as amended by P.L. 16-41 and codified in Title 4, §4401 *et seq.*

The Civil Service Commission is a quasi-judiciary agency administrative body that adjudicates appeals and complaints by classified employees, and on occasion unclassified employees. The Commission reviews, investigates, and enforces merit system principles in accordance to rules and laws. The Commission also assures fair and equitable treatment for all employees and is committed to promote a harmonious working relationship and strives to resolve complaints expeditiously.

The Commission has jurisdiction of over 10,000 executive branch government of Guam employees in both line agencies and autonomous agencies. The Civil Service Commission is mandated to enforce Merit System principles and investigate conditions of the government employment as well as to hear appeals of adverse actions taken to suspend, demote or dismiss an employee from the classified service as well as other responsibilities mandated by rules and laws which include, Adverse Action appeals, Grievance appeals, Furlough appeals (investigations, Lay Off appeals (investigations), Equal Employment Opportunity appeals (complaints, Priority Placement procedure investigations), Personnel Action investigations, Post Audit investigations, Public Employee Protection Act investigations, Political Activity investigations, and Ethics in Procurement investigations. These adjudicatory authorities are codified as Guam Code Annotated Title 4, subsections, 4403 (b), (c), (d) and (e), subsection 4501 and following, subsection 5101 and following, Title 5 subsection 5625 through 5633.

Several components of the Civil Service Commission's authority was removed by P.L. 28-68 and partially restored by P.L. 29-002 and P.L. 30-112. Most recently, P.L. 33-55 was signed into law on June 1, 2015, mandating the Civil Service Commission to utilize the services of an Administrative Law Judge (ALJ) to assist the Commission in reducing the backlog of cases.

In accordance with the Administrative Adjudication Act, the Civil Service Commission will be introducing rules of procedure for the ALJ in conducting hearings for Adverse Action, Grievance and other appeals matters.

Between 2012 and 2014, the Commission accepted 98 Adverse Action appeals, 81 Grievance appeals, 21 Personnel Action complaints, and 5 Public Employee Protection Act complaints.

RFP TIMETABLE:

RFP package for interested parties available at the CSC or may be downloaded at csc.guam.gov.

After 8:00 AM
January 11, 2016

Deadline for Receipt of Written Questions.

5:00 PM
January 18, 2016

Deadline for Answers to Written Questions.

5:00 PM
January 25, 2016

Deadline for receipt of Statement of Qualifications and sealed cost proposals at the CSC.

12:00 PM
February 1, 2016

SERVICES REQUIRED:

The CSC requires the professional services from qualified attorneys or law firms interested in serving as administrative law judge to the CSC for fiscal years (FY) 2016, 2017 and 2018, with the option to renew for three additional one-year terms. The work shall consist primarily of conducting administrative hearings on adverse actions, grievances, and other matters, and generating a timely findings of fact report to be presented to the Commission.

II. SUBMISSION AND EVALUATION OF PROPOSAL

1. DESCRIPTION OF WORK INVOLVED

The Scope of Services required is described in Part "III" of this Request for Proposal.

2. TYPE OF CONTRACT

A multi-year professional service agreement will be entered into between the best qualified and most responsible offeror(s) and the CSC.

3. SUBMITTAL DATE

The required proposal (1 original and 3 copies) must be submitted no later than **12:00 pm** Chamorro Standard Time (Guam Time), **Monday, February 1, 2016**. Any proposals submitted after the deadline will not be accepted.

4. PRE-PROPOSAL CONFERENCES

Pre-proposal conferences, as appropriate, may be conducted in accordance with Title 2 of the Guam Administrative Rules and Regulations (G.A.R.) § 3114(g) (Pre-Proposal Conference). Such a conference will be conducted on January 15, 2016 at 2 p.m.

5. QUESTIONS AND AMENDMENTS

Offerors should carefully review this RFP. Discrepancies, omissions, or doubts as to the meaning of the specifications **must be communicated in writing** to the Executive Director for clarification or interpretation. Questions must be received by **5:00 PM Guam Time, Monday, January 18, 2016**. All submissions will be answered in writing, copies of which will be distributed via fax, email, or hand-carry to all RFP recipients. Questions received after **5:00 PM Guam Time, Monday, January 18, 2016** will not be answered.

Questions and comments may be mailed, faxed, emailed or hand-carried to:

Administrative Counsel
Civil Service Commission
MVP Phase II Sinajana
777 Rte 4 Suite 107
Hagatna, Guam 96910
Fax: (671) 647-1867
Email: csc.document.filing@csc.guam.gov

Should the Administrative Counsel consider it necessary to revise any part of this RFP significantly or extend the submission deadline, written addenda will be provided to all who picked up the RFP prior to the deadline. Interpretation, if required, shall be made in the form of an amendment which will be provided to all prospective offerors and posted on the CSC website csc.guam.gov. Amendments will be distributed within reasonable time to allow prospective firms and/or individuals to amend their proposals. If the time and date set for receipt of proposals do not permit such

preparation, the time shall be increased to the extent possible to support the additional amendment.

No oral explanation with regard to the meaning of the amendment(s) will be made and no oral instructions will be given before the award of the contract.

Except for inquiries sent in the manner described above, no other direct or indirect contact relating to this RFP with the Executive Director, the management or staff of CSC, or any person participating in the selection process is allowed.

6. FORM OF SUBMITTAL

Proposals should be neat, well ordered, and bound (i.e., three-hole punched or comb bound). To conserve resources and minimize the size and weight of proposals, two-sided printing may be used where possible.

Any proposals submitted after the above deadline will not be accepted. Submitted proposals must remain valid for at least ninety (90) days. **In response to this RFP, both a sealed Statement of Qualifications and a sealed price/fee proposal, containing the offerors's rate schedule, must be submitted concurrently.** The Statement of Qualifications must be in writing with one (1) Original and three (3) copies. The Statement of Qualifications must be submitted in a separate sealed envelope from the price/fee proposal. The sealed envelope shall be marked plainly:

**Civil Service Commission
Attention: Alberto A. Lamorena V, Executive Director
Request for Proposal No. CSC-RFP-16-001
Administrative Law Judge
Statement of Qualifications**

In a second separate sealed envelope, the offeror shall also submit the proposed hourly billing rates for the type or types of services offered. Offerors may submit a proposal of fees for flat fee services for fiscal years 2016, 2017, and 2018. If flat fee rates vary among members or employees of a firm (e.g. partners/associates/paralegal), please specify rates for each specific group or individual that may be called upon to provide services under the contract. Flat fees may be submitted for any of the following: "simple" adverse actions, adverse actions, "simple" grievances, grievances, motion hearings, and miscellaneous hearings. **Only one separate sealed envelope with the offeror's rates should be submitted.** The sealed envelope shall be marked plainly:

**Civil Service Commission
Attention: Alberto A. Lamorena V, Executive Director
Request for Proposal No. CSC-RFP-16-001
Administrative Law Judge
Price/Fee Proposal**

The sealed envelopes containing the offeror's Statement of Qualifications and price/fee proposal shall also indicate the offeror's name, address, and contact information, as well as the date of proposal submission.

Proposals must be mailed or hand-delivered to the CSC by 12:00 PM Guam Time, February 1, 2016 to be considered. CSC office hours are Monday to Friday, 8:00 AM to 5:00 PM, excluding holidays. **Proposals submitted via fax or email will not be accepted.** Regardless of postmark, proposals sent by mail will not be accepted after the submission deadline. Under no circumstances will the CSC accept late proposals. Proposals and modifications shall be time-stamped upon receipt.

7. OPENING OF PROPOSALS

All proposals will be held in a secure place until opening. Proposals will not be opened publicly but will be opened in the presence of two or more CSC staff.

Following the submission deadline, an official Register of Proposals shall be prepared to include all proposals received, the name of each offeror, and the date and time each proposal was received. The Register of Proposals shall be open for public inspection only after the award of the contract(s).

8. INSTRUCTIONS FOR STATEMENT OF QUALIFICATIONS

Statement of Qualifications should be prepared simply and economically, providing a straightforward, concise description of the individual or firm's ability to fulfill the requirements of CSC-RFP-16-001. In order to ensure a uniform review process and maximum degree of comparability, the Statement of Qualifications should be organized and submitted in the manner and format described in Item 9 of Section II, "Contents of the Statement of Qualifications" section below. **Failure to follow these instructions or to include all the information requested may result in a lower evaluation score or the rejection of the proposal.**

The Statement of Qualifications and the attached forms must be completed, printed, and signed in ink. Statement of Qualifications containing any conditions, omissions, unexplained erasures or alterations, or items not called for in the RFP, or irregularities of any kind may be considered non-compliant and may be rejected by the CSC.

9. CONTENTS OF THE STATEMENT OF QUALIFICATIONS

Statement of Qualifications must be in writing and shall contain the following, at a minimum:

- a. **Business Name.** The name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract, a mailing address, telephone number(s), facsimile number, email address, date of the proposal, and the title and number of the RFP. A designated contact person, his or her title, address, telephone, facsimile number and email address should also be included;
- b. **Authorized Individuals.** All proposals must be signed by the authorized

individual(s) who is/are or are directly answerable and responsible for the proposed contract. Specifically:

- For partnerships, the proposal should be submitted in the name of the partnership and signed by a general partner or other person duly authorized to bind the partnership. The capacity of the person signing must be stated.
 - Joint venture proposals to serve as co-counsel with one or more firms will also be considered. In such cases, each joint venture must sign the proposal and each firm must have valid business licenses with the capacity of each person signing to be stated.
 - For sole proprietors, proposals should state the name and form under which the proprietor is doing business and must be signed by the proprietor.
 - For any other business form, a person duly authorized to bind the business should sign the proposal. The capacity and authority of the person signing must be stated.
 - If the offeror is doing business under a fabricated name, the proposal should be signed by the person licensed to do business under that name. A copy of the Certificate of Registration for the fabricated name must also be submitted.
 - Proposals which entail subcontracting for any attorney services will not be entertained.
- c. **License to Practice.** Individuals or firms submitting proposals must provide satisfactory evidence of their qualification and license to practice law on Guam. See 7 G.C.A. §§ 9A113 and 9A114. Proposals should include a copy of each attorney's license to practice law on Guam and any other jurisdiction in which the attorneys or firm are licensed to practice. See also 5 G.C.A. § 5008 and the Rules of the Supreme Court of Guam pertaining to the admission to the practice of law. The Supreme Court rules are available at the website of the Guam Compiler of Laws at www.guamcourts.org.
- d. **Business License.** Interested individuals or firms should also provide a copy of a current business license to conduct business on Guam or where the individuals or firms are domiciled. If offeror is not based on Guam, the selected offeror shall be required to obtain a Guam business license within 30 days of award, unless expressly exempt. If expressly exempt from Guam business licensing laws, please provide proof that exemption has been allowed and all requirements to transact business as an attorney have been fulfilled. Additional information on licenses may be obtained from the Guam Department of Revenue and Taxation at www.guamtax.com.

- e. **Professional Experience.** The proposal should also include a written, verifiable discussion of the offerors knowledge, understanding, and legal experience in government, administrative, and employment law. A narrative of the ability to handle the work specified in the Scope of Services should also be included. If the offeror does not possess experience similar to the services required, the proposal should provide any pertinent information or experience that may qualify the offeror for consideration.
- f. **Educational, Technical, and Professional Expertise and Qualifications.** All individuals who will be involved in performing the Scope of Services must possess the necessary education and technical and professional expertise to serve as administrative law judge. Proposals should specifically identify such persons and include their resumes; the resume may include awards or recognition for services, special approaches, or concepts relevant to the required services.
- g. **Potential Conflicts of Interest.** To preclude conflicts of interest as related to the legal services being sought, offerors must identify the existence of any potential conflicts, including any lawsuits and disputes in which you represent parties whose interests may be adverse to the CSC, and any current or historical engagement or relationships with any public or private party that could potentially create a conflict of interest with the CSC, the government of Guam, or any of its agencies or instrumentalities. The offeror must include a statement affirming that, to the best of his/her knowledge, there are no conflicts of interest with regard to the services required by the CSC, and must also provide certification that no ethical, civil, or criminal charges are pending against him/her or the firm they represent.
- h. **References.** Include a list of three (3) references of clients or associates, past or present, who are able to speak or write about the qualifications and abilities of the offeror to perform the required Scope of Services. Also include a listing of other contracts under which services similar in scope, size, and discipline were performed or undertaken in the past five years, including those performed for government of Guam agencies. References listed should include name, title, a daytime contact number, email address, and fax number.
- i. **Writing Sample.** The offeror must present at least one (1) writing sample demonstrating the offerors command of English and his/her ability to gather, analyze and present information in an organized and concise manner. The writing sample may be either a legal brief or opinion memorandum addressing a civil law or employment issue. If none are available, please explain why.
- j. **Plan.** The offeror must provide a plan giving as much detail as is practical explaining how the services will be performed.
- k. **Non-Collusion Affidavit.** Each firm submitting a proposal for any portion of the work covered by the proposing documents shall execute an affidavit, in the form provided with this proposal, to the effect that they have not

colluded with any other person, firm, or corporation with regard to any proposal submitted. Such affidavit shall be attached to the proposal.

10. DISCUSSIONS

The evaluation committee may conduct discussions with any offeror to (1) determine in greater detail such offeror's qualifications and (2) explore with the offeror the scope and nature of the required services, its proposed method of performance, and the relative utility of alternative methods of approach. Discussions shall not disclose any information derived from proposals submitted by other offerors. The proposal of the offeror awarded the contract shall be opened to public inspection after the award of the contract, except as otherwise provided in the contract, and the proposals of the offerors who were not awarded the contract shall not be made available for public inspection pursuant to 2 G.A.R., Div. 4, Chap. 3, §3114(h)(1).

11. EVALUATION

The Executive Director will appoint the Evaluation Committee consisting of three (3) members from the CSC to select one or more of the most responsive and qualified offerors. The evaluation factors and their score values are as follows:

35 points Maximum

- a. The ability to perform the services as reflected by legal training and education, general and specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services. Special emphasis is placed upon the ability to complete an adequate, written findings of fact in a timely fashion;

25 points Maximum

- b. The plan for performing the required services, including understanding of the CSC and the Scope of Services, to include potential problems and/or concerns;

20 points Maximum

- c. The record and quality of past performance of similar work, including input from clientele/references, regarding the level of customer satisfaction with similar legal services;

20 points Maximum

- d. The character, integrity, reputation, judgment, efficiency and effectiveness of the offeror, particularly is it will relate to the ability to conduct hearings in a fair, impartial, and professional manner.

100points (Total Maximum)

12. SELECTION OF BEST-QUALIFIED OFFEROR AND PROPOSAL

The Evaluation Committee shall evaluate the Statement of Qualifications on the basis of the evaluation factors stated in this Request for Proposals. After the Evaluation Committee completes the validation of qualifications for each offeror, the evaluation of

each proposal, Statement of Qualifications, and discussions made pursuant to 2 G.A.R., Div. 4, Chap. 3, §3114(i), if any, have been completed, the Evaluation Committee shall make a recommendation to the Executive Director as to the most qualified offeror(s) in the order of their respective qualification and evaluation ranking to the Executive Director. The Executive Director may select one or more of the qualified offeror(s). However, the Executive Director is not bound by the evaluation committee's recommendation. Proposals shall be evaluated only on the basis of the evaluation factors stated in this RFP. The primary document for evaluation will be the proposal(s) submitted.

If the Executive Director rejects the recommendation, the Executive Director may require the Evaluation Committee to conduct a second evaluation or take any action necessary to ensure the proposals are evaluated in accordance with the evaluation factors set forth in the Request for Proposals, or any action permitted by Guam Procurement Laws and Regulations.

Should the Executive Director accept the Evaluation Committee's recommendation, the Evaluation Committee shall open the sealed priced/fee proposal and begin negotiations with the best qualified offeror(s). If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror(s), and the Executive Director approves the final contract, the contract shall be awarded to those offerors.

If compensation, contract requirements, and contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the procurement file and the Executive Director or her designee shall advise such offeror of the termination of negotiations which shall be confirmed by written notice within three (3) days.

Should the Executive Director or her designee be unable to negotiate a contract with any of the offerors initially selected as the best qualified offerors, offers may be re-solicited or additional offerors may be selected, as set forth above, based on original acceptable submissions in the order of their respective qualification ranking and negotiations may continue as set forth above until an agreement is reached and the contract is awarded.

Contract negotiations will be directed towards (1) making certain that the offeror has a clear understanding of the scope of work, specifically, the essential requirements involved in providing administrative law judge services; (2) determining that the offeror will make proper use of the available the necessary personnel and facilities to perform the services within the required time; and (3) agreeing to fair and reasonable compensation, taking into account the estimated value of the required legal services, and the scope, complexity, and nature of such services.

The Executive Director may enter into separate contracts for administrative law judge with different offerors and may make offers to more than one offeror in order to have a list of individuals or firms who may be readily available due to conflicts or time constraints by one or more individuals. All offerors will be notified in writing whether or not they have been selected.

After the selection of the best qualified offeror(s) and successful negotiations regarding compensation, contract requirements, and contract documents are reached, the sealed price/fee proposal from offerors not awarded the contract will be returned intact.

13. CONTRACT TERM

Provided there are qualified proposals, the Executive Director may enter into contract with one or more offerors. The contract(s) will be for a three-year term, covering fiscal years 2016, 2017, and 2018, with the caveat that contract terms remain subject to the availability of government funds. The contract(s) will take effect immediately upon approval and execution by the Executive Director and the awarded offeror(s). The Executive Director retains the option to renew for three (3) additional one-year contract periods following FY 2018. Each renewal year is to be mutually agreed upon by the Executive Director and the contracted party.

14. TRADE SECRETS, CONFIDENTIAL OR PROPRIETARY INFORMATION

Offerors may designate those portions of their proposal that contain trade secrets or proprietary data to be confidential. Designated portions must be explicitly marked "CONFIDENTIAL". After the award, each proposal submitted becomes a part of the public procurement record. Upon review of the portions of offerors' proposals that are marked proprietary, the Executive Director will examine the request, determine its validity, and either grant or deny it. If denied, the Executive Director will notify the offeror in writing as to what and why portions will be disclosed. The offeror may then withdraw the proposal or submit a protest according to law. If the proposal is not withdrawn and no protest is received, then the Executive Director may disclose those portions of the proposal for which a non-disclosure request was not granted.

END OF SUBMISSION AND EVALUATION OF PROPOSAL

III. SCOPE OF SERVICES FOR ADMINISTRATIVE LAW JUDGE

1. SERVICES REQUIRED

CSC is soliciting proposals from qualified attorneys or law firms interested in serving as administrative law judge to the CSC for fiscal years (FY) 2016, 2017, and 2018. The work shall consist primarily of conducting administrative hearings. ALJs will be provided with all necessary staff, including a legal secretary, access to a legal database, an on-site work computer, recording equipment, and use of the CSC hearing facilities.

2. DESCRIPTION OF WORK INVOLVED

The professional services for administrative law judge may include, but is not limited to, the following:

- (a) Conducting administrative hearings for adverse action appeals, grievances, motion hearings, administrative arbitrations, or other hearings as needed. Hearings will generally be conducted Mondays, Wednesdays, and/or Fridays, as needed, during normal business hours, at the CSC office, although other days may be available.
- (b) Generating complete findings of fact reports to be presented to the Commission in a timely manner.
- (c) Complying with the Administrative Law Judge Rules of the Civil Service Commission.
- (d) Providing other legal services as requested by the Executive Director.

3. DESCRIPTION OF CATEGORIES

The categories for flat fee bids being accepted are defined as follows:

- (a) A "simple" adverse action is one that it is anticipated should be completed with 1-2 days of hearing.
- (b) An adverse action is anticipated to take 3 or more days of hearing.
- (c) A "simple" grievance is anticipated to take 1 day of hearing.
- (d) A grievance is anticipated to take 2 or more days of hearing.
- (e) Motion hearings or other hearings should not require more than 1 day of hearing, but may require research.
- (f) Administrative arbitrations do not require findings of fact, but may vary in length.

4. CONFIDENTIALITY

The awarded party(s) and their employees shall not disclose any information pertaining to any CSC case or hearing. The CSC complies with Open Government Law, but disclosures are left to the Executive Director.

END OF SCOPE OF SERVICES FOR ADMINISTRATIVE LAW JUDGE

IV. GENERAL TERMS AND CONDITIONS

1. **AUTHORITY**

This RFP solicitation is issued subject to all the provisions of the Guam Procurement Law (Chapter 5 of Title 5 Guam Code Annotated) and the Guam Procurement Regulations (Division 4, Title 2 Guam Administrative Rules and Regulations) which are available for inspection on the Guam Compiler of Laws website, www.guamcourts.org/compileroflaws. The RFP requires all parties involved in the preparation, negotiation, performance, or administration of contracts to act in good faith.

2. **GENERAL INTENTION**

Unless otherwise specified, it is the declared and acknowledged intention and meaning of these General Terms and Conditions for the offeror to provide CSC with specified services.

3. **PROPOSALS**

By submitting a proposal in response to this RFP, offerors agree to be bound by the following terms and conditions:

- A. The offeror acknowledges that it read each and every page of CSC's Request for Proposal and by the act of submitting a proposal shall be deemed to have accepted all conditions contained therein. In no case will failure to inspect constitute grounds for a claim or for the withdrawal of a proposal after opening.
- B. Proposals shall be filled out (typewritten) and signed in ink. Erasures or other changes in a proposal must be explained or noted over the signature of the offeror. Proposals containing any conditions, omissions, unexplained erasures or alternations or items not called for in the Proposal, or irregularities of any kind may be rejected by the CSC as being incomplete.
- C. The CSC is not liable for any cost incurred by any offeror before a contract is awarded. All costs incurred by an offeror in preparation of their proposal, including travel and personal expenses, are to be borne by the offeror and may not be charged as an expense of performing the contract.
- D. Proposals submitted in response to this RFP must remain valid for at least ninety (90) calendar days after the submission deadline.
- E. The CSC is not obliged to perform under a contract resulting from this RFP until the contract(s) is/are signed and approved by both the Executive Director and the awarded offeror(s). The Executive Director may also negotiate with the successful offeror(s) on other terms and conditions.
- F. The CSC also reserves the right to:
 - 1) Request any individual or firm to clarify their proposal or to supply any additional material, orally or written, that is considered necessary for potential selection.
 - 2) Amend, supplement, or cancel the RFP, in whole or in part at any time.
 - 3) Modify or otherwise alter any of the terms of this RFP prior to the award, for which the Executive Director determines the modifications to be material and necessary. Any amendment issued pursuant to this RFP must be acknowledged as being received by the potential offerors. Amendments shall be distributed within a reasonable time to allow prospective firms to consider the issue in preparing their proposals. If the time

and date set for receipt of proposals will not permit such preparation, such time shall be increased to the extent possible in the amendment or, if necessary, by telegram or telephone and confirmed in the amendment.

- 4) All responding offerors will be given an equal opportunity to modify their proposals in those specific areas designated.
- 5) Reject any or all proposals received at any time, if the Executive Director determines such to be in the best interest of the Government of Guam and CSC. The CSC may make such investigations as deemed necessary to determine the ability of the offeror to perform the work, and the offeror shall furnish to the CSC all such information and data for this purpose as the CSC may request. The Evaluation Committee, with the approval of the Executive Director, reserves the right to reject the offeror if the evidence submitted by, or investigation of such offeror fails to satisfy the Evaluation Committee that such offeror is properly qualified to carry out the obligations of the contract and to complete the work contemplated herein. Conditional proposals will not be accepted. This right of reject and/or cancel is also pursuant to 2 G.A.R., Div. 4, Chap. 3, §3115(d)(2)(A).
- 6) Waive deviations from the terms of this RFP if the Executive Director determines the deviations are not material, considered minor informalities or irregularities, and such are determined to be in the best interest of the Government of Guam and CSC.
- 7) Re-solicit for proposals when it is deemed to be in the best interest of the Government of Guam and CSC.

4. **EXPLANATION TO OFFERORS**

No oral explanation in regard to the meaning of the specification will be made and no oral instructions will be given before the award of the proposal. Discrepancies, omissions, or doubts as to the meaning of the specifications should be communicated in writing to the named contact individual of the requesting agency/department for interpretation. Offerors should act promptly and allow sufficient time for a reply to reach them before submission of their proposals. Interpretation, if required, shall be made in the form of an amendment to the RFP, which will be forward to all prospective offerors, and its receipt by the offeror should be acknowledged on the proposal form.

5. **WITHDRAWAL OF PROPOSALS**

Proposals may be withdrawn on written request received from offeror(s) prior to the time fixed for opening. Negligence on the part of the offeror in preparing the proposal confers no right for the withdrawal of the proposal after it has been opened.

6. **FAILURE TO NEGOTIATE CONTRACT WITH OFFERORS INITIALLY SELECTED AS BEST QUALIFIED**

Should the CSC be unable to negotiate a contract with the offeror initially selected as the best qualified, negotiations may continue with the next qualified offeror in accordance with the procedures and process herein specified, subject to the approval of the Executive Director.

7. **SPECIAL PERMITS AND LICENSES**

It is the policy of the CSC to award proposals only to offerors duly authorized and licensed to conduct business in Guam. Offerors licensed in the United States or outside of Guam, must obtain the necessary Guam licenses and permits within 30 days of selection notification. Specific information on licenses and permits may be obtained from the Director of Revenue and Taxation.

The offeror shall, at his own expense, procure all permits, certificates, and license and shall give all notices and necessary reports required by law for the General Scope of the work. Failure to maintain required licenses or permits shall be grounds for immediate termination of contract.

8. PAYMENT OF SERVICES & GUAM TAXES

Payment for any contract entered into as a result of this RFP will be made no more frequently than monthly upon receipt of the offeror's billing statement on a net 30-day basis. Offerors are notified that they are subject to the Guam Business Privilege Tax and the Guam Income Tax, as well as all other taxes or government fees that may be applicable. Specific information on taxes may be obtained from the Guam Department of Revenue and Taxation at www.guamtax.com.

The Procurement Administrator must notify the contractor on a timely basis that the funds are, or are not, available for the continuation of the contract for each succeeding fiscal period.

If funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period succeeding the first, the multi-term contract will be cancelled. This does not affect either the territory's rights or the contractor's rights under any termination clause in the contract. In the event of cancellation under 2 G.A.R. § 3121(e)(1)(C), the contractor will be reimbursed the unamortized, reasonably incurred, nonrecurring costs.

9. JUSTIFICATION OF DELAY

The offeror who is awarded the contract guarantees that the service will be completed within the agreed upon completion date. If, however, the offeror cannot comply with the completion requirement, it is the offeror's responsibility to advise the CSC in writing explaining the cause and reasons of the delay. The CSC, with the approval of the Executive Director, may make a reasonable extension of time.

10. EQUAL EMPLOYMENT OPPORTUNITY

Section 3.01 of the Executive Order 10935 dated March 7, 1965 requires the offeror not to discriminate against any employee or applicant for employment because of race, creed, color or national origin. The offeror will take affirmative action to ensure that employees are treated equally during employment without regard to their race, creed, color or national origin.

11. DETERMINATION OF RESPONSIBILITY OF OFFEROR

The Evaluation Committee shall use the following criteria in determining responsibility of the offeror, and reserves the right to secure additional information from offerors necessary to determine whether or not they are responsible in each of the following:

- The ability, capacity, and skill of the offeror to perform;
- Whether the offeror can perform promptly and/or within the specified time periods;
- The character, integrity, reputation, judgment experience, and efficiency of the offeror;
- The quality of performance of the offeror with regard to awards previously made to the offeror;
- The offeror's past and present record of compliance with administrative laws and regulations;
- The sufficiency of the offeror's financial resources and ability to perform;
- The offeror's compliance with the specifications and requirement of this RFP; and
- If requested, the offeror must meet all Government of Guam and United States laws, regulations, and requirements, such as the Americans with Disabilities Act and the U.S. Department of Labor Wage Determination Standards.

12. ASSIGNMENT

No assignment may be made of any contract awarded in response to this RFP without the written consent of the Executive Director.

13. CONTACT FOR CONTRACT ADMINISTRATION

If your firm receives a contract as a result of this RFP, designate a person whom we may contact for prompt administration, showing:

Name: _____	Title: _____
Address: _____	Tel. _____
_____	No.: _____
_____	Fax No.: _____
_____	Email _____
_____	Address: _____

14. CONTRACT PROVISIONS

The CSC reserves the right to include any part or parts of the offeror's proposal in the final contract with the offeror. Offeror will be subject to conditions and terms imposed by the CSC.

By submitting a proposal, the offeror specifically understands and agrees that it has a duty to explain and clarify any and all conditions imposed on or included in its responses and questions in this RFP. The offeror further understands that it has an affirmative duty to inquire about and clarify any section of the RFP that the offeror does not understand or that the offeror believes may be susceptible to more than one interpretation.

15. LAWS TO BE OBSERVED

(a) The offeror should be familiar with federal and local laws, codes, ordinances, and regulations, which, in any manner, affect those engaged or employed in the work, or the material or equipment used in or upon the site, or in any way affect the conduct of the work. No misunderstanding or ignorance on the part of the offeror will in any way serve to modify the provision of the contract.

(b) **Prohibition Against Gratuities and Kickbacks** The offeror duly represents that he or she has not violated, is not violating, and will not violate the prohibition against gratuities and kickbacks set forth in the Guam procurement law as follows (2 G.A.R., Div. 4, Chap. 11, §11107(3)) :

It is a breach of ethical standards for any person to offer, give, or agree to give any government employee or former government employee, or for any government employee or former government employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore. Further, it shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement of the award of a subcontract or order.

- (c) **Ethical Standards** The offerors shall duly represents that he, she, they or it has not knowingly influenced, and promises that it will not knowingly influence, a government employee to breach any of the ethical standards set forth in the Guam procurement laws and regulations pertaining to ethics in public contracting. (2 G.A.R., Div. 4, Chap. 11, §11103(b))
- (d) **Covenant Against Contingent Fees** The offeror warrants that no person was retained for a commission, percentage, brokerage, or contingent fee to solicit or secure any resultant contract upon agreement. Breach of this warranty shall give the CSC the right to terminate the contractor, or at its discretion to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commission payable by contractors upon contracts or sales secured or made through *bona fide* established commercial or selling agencies maintained by the contractor for the purpose of securing business. (2 G.A.R., Div. 4, Chap. 11, §11108(f) and (h))
- (e) **Wage Determination Established and Benefits** The offeror has read and understands the provisions of Title 5 of the Guam Code Annotated (G.C.A.) §5801 and §5802, which reads:
- a) **§5801. Wage Determination Established.**
In such cases where the Government of Guam enters into contractual arrangements with a sole proprietorship, a partnership or a corporation ("contractor") for the provision of a service to the Government of Guam, and in such cases where the contractor employs a person(s) whose purpose, in whole or in part, is the direct delivery of service contracted by the Government of Guam, then the contractor shall pay such employee(s) in accordance with the Wage Determination for Guam and the Northern Mariana Islands issued and promulgated by the U.S. Department of Labor for such labor as is employed in the direct delivery of contract deliverables to the Government of Guam.
 - b) The Wage Determination most recently issued by the U.S. Department of Labor at the time a contract is awarded to a contractor by the Government of Guam shall be used to determine wages, which shall be paid to employees pursuant to this Article. Should any contract contain a renewal clause, then at the time of renewal adjustments, there shall be made stipulations contained in that contract for applying the Wage Determination, as required by this Article, so that the Wage Determination promulgated by the U.S. Department of Labor on a date most recent to the renewal date shall apply.
 - c) **§5802. Benefits.**
In addition to the Wage Determination detailed in this Article, any contract to which this Article applies shall also contain provisions mandating health and similar benefits for employees covered by this Article, such benefits having a minimum value as detailed in the Wage Determination issued and promulgated by the U.S. Department of Labor, and shall contain provisions guaranteeing a minimum of ten (10) paid holidays per annum per employee.
 - d) That the offeror is in full compliance with 5 G.C.A. §5801 and §5802, as may be applicable to the procurement referenced herein.
- (f) **Restriction Against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues.** (5 G.C.A. §5253)
- 1) No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 G.C.A., or an offense as defined in Article 2 of Chapter 28, Title 9 G.C.A. in Guam,

or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry, and who is employed by a business contracted to perform services for an agency or instrumentality of the Government of Guam, shall work for his employer on the property of the Government of Guam other than a public highway.

- 2) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 G.C.A. or an offense as defined in Article 2 of Chapter 28, Title 9 G.C.A., or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 G.C.A. or an offense as defined in Article 2 of Chapter 28, Title 9 G.C.A. or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.
- 3) Duties of the General Services Agency or Procurement Administrators. All contracts, bids, or RFPs shall state all the conditions in §5253(b).
- 4) Any contractor found in violation of §5253(b), after notice from the contracting authority of such violation, shall, within twenty-four (24) hours, take corrective action and shall report such action to the contracting authority. Failure to take corrective action within the stipulated period may result in the temporary suspension of the contract at the discretion of the contracting authority.

16. STATUS OF CONTRACTOR/CONSULTANT (OFFEROR)

The offeror and its officers, agents, servants and employees are independent contractors performing professional services for the CSC.

17. INSURANCE

The Offeror shall procure and maintain at his or her own expense all necessary comprehensive insurance for his/her employees including but not limited to Worker's Compensation and general liability insurance.

18. APPLICABILITY OF GUAM AND FEDERAL PROCUREMENT LAW

If any part of this RFP is contrary to any applicable federal procurement regulations, contrary to Guam procurement law, or contains ambiguous terms, then such portion of the RFP shall be interpreted or resolved in favor of or according to the provisions of the applicable federal regulations and Guam procurement Law.

END OF GENERAL TERMS AND CONDITIONS

AFFIDAVIT 1

NON-COLLUSION AFFIDAVIT

RFP No. CSC-RFP-16-001

Type of Service Being Offered: Administrative Law Judge

Name of Offeror (Firm or Individual): _____

STATE OF _____)
CITY OF _____) SS.

_____ being first duly sworn,
deposes and says:

That he/she is _____ (the respondent, a partner of the respondent, an officer of the respondent) making the foregoing identified bid or proposal; that such bid or proposal is genuine and not collusive or a sham; that said respondent has not colluded, conspired, connived or agreed, directly or indirectly, with any other respondent or person, to put in a sham proposal or to refrain from making an offer, and has not in any manner, directly or indirectly, sought by an agreement or collusion, or communication or conference, with any person to fix the proposal price of respondent or of any other respondent, or to fix any overhead, profit or cost element of said proposal price of respondent or of that of any other respondent, or to secure any advantage against the Government of Guam or any other respondent, or to secure any advantage against the Government of Guam or any person interested in the proposed contract; and that all statements in this affidavit and proposal are true.

Signature of individual if offeror is a sole Proprietorship; Partner, if the
offeror is a Partnership; Officer, if the offeror is a Corporation.

SUBSCRIBED AND SWORN to before me this _____ day of _____,
201____.

Notary Public
My

Commission

Expires:

**THIS AFFIDAVIT MUST BE COMPLETED AND RETURNED IN THE ENVELOPE
CONTAINING THE PROPOSAL.**

AFFIDAVIT 2

SPECIAL PROVISIONS AFFIDAVIT

If a contract for services is awarded to the bidder or offeror, then the service provider must warranty that they will comply with the following laws and regulations identified in item 15 of section IV of the RFP:

1. The offeror should be familiar with federal and local laws, codes, ordinances, and regulations, which, in any manner, affect those engaged or employed in the work, or the material or equipment used in or upon the site, or in any way affect the conduct of the work. No misunderstanding or ignorance on the part of the offeror will in any way serve to modify the provision of the contract.
2. **Prohibition Against Gratuities and Kickbacks** The offeror duly represents that he or she has not violated, is not violating, and will not violate the prohibition against gratuities and kickbacks set forth in the Guam procurement law as follows (2 G.A.R., Div. 4, Chap. 11, §11107(3)):

It is a breach of ethical standards for any person to offer, give, or agree to give any government employee or former government employee, or for any government employee or former government employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore. Further, it shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement of the award of a subcontract or order.
3. **Ethical Standards** The offerors shall duly represents that he, she, they or it has not knowingly influenced, and promises that it will not knowingly influence, a government employee to breach any of the ethical standards set forth in the Guam procurement laws and regulations pertaining to ethics in public contracting. (2 G.A.R., Div. 4, Chap. 11, §11103(b))
4. **Covenant Against Contingent Fees** The offeror warrants that no person was retained for a commission, percentage, brokerage, or contingent fee to solicit or secure any resultant contract upon agreement. Breach of this warranty shall give the CSC the right to terminate the contractor, or at its discretion to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commission payable by contractors upon contracts or sales secured or made

through *bona fide* established commercial or selling agencies maintained by the contractor for the purpose of securing business. (2 G.A.R., Div. 4, Chap. 11, §11108(f) and (h))

5. **Wage Determination Established and Benefits** The offeror has read and understand the provisions of 5 G.C.A. §5801 and §5802, which read:

a) §5801. Wage Determination Established.

In such cases where the Government of Guam enters into contractual arrangements with a sole proprietorship, a partnership or a corporation ("contractor") for the provision of a service to the Government of Guam, and in such cases where the contractor employs a person(s) whose purpose, in whole or in part, is the direct delivery of service contracted by the Government of Guam, then the contractor shall pay such employee(s) in accordance with the Wage Determination for Guam and the Northern Mariana Islands issued and promulgated by the U.S. Department of Labor for such labor as is employed in the direct delivery of contract deliverables to the Government of Guam.

- b) The Wage Determination most recently issued by the U.S. Department of Labor at the time a contract is awarded to a contractor by the Government of Guam shall be used to determine wages, which shall be paid to employees pursuant to this Article. Should any contract contain a renewal clause, then at the time of renewal adjustments, there shall be made stipulations contained in that contract for applying the Wage Determination, as required by this Article, so that the Wage Determination promulgated by the U.S. Department of Labor on a date most recent to the renewal date shall apply.

c) §5802. Benefits.

In addition to the Wage Determination detailed in this Article, any contract to which this Article applies shall also contain provisions mandating health and similar benefits for employees covered by this Article, such benefits having a minimum value as detailed in the Wage Determination issued and promulgated by the U.S. Department of Labor, and shall contain provisions guaranteeing a minimum of ten (10) paid holidays per annum per employee.

- d) That the offeror is in full compliance with 5 G.C.A. §5801 and §5802, as may be applicable to the procurement referenced herein;

6. **Restriction Against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues.** (5 G.C.A. §5253)

- a) No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 G.C.A., or an offense as defined in Article 2 of Chapter 28, Title 9 G.C.A. in Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry, and who is employed by a business contracted to perform services for an agency or instrumentality of the Government of Guam, shall work for his employer on the property of the Government of Guam other than a public highway.

- b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 G.C.A. or an offense as defined in Article 2 of Chapter 28, Title 9 G.C.A., or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 G.C.A. or an offense as defined in Article 2 of Chapter 28, Title 9 G.C.A. or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.
- c) Duties of the General Services Agency or Procurement Administrators. All contracts, bids, or RFPs shall state all the conditions in §5253(b).
- d) Any contractor found in violation of §5253(b), after notice from the contracting authority of such violation, shall, within twenty-four (24) hours, take corrective action and shall report such action to the contracting authority. Failure to take corrective action within the stipulated period may result in the temporary suspension of the contract at the discretion of the contracting authority.

Signature of individual if offeror is a sole Proprietorship;
Partner, if the offeror is a Partnership; Officer, if the offeror
is a Corporation.

SUBSCRIBED AND SWORN to before me this ____ day of _____,
201____.

Notary Public
My Commission Expires: _____

**THIS AFFIDAVIT MUST BE COMPLETED AND RETURNED IN THE ENVELOPE
CONTAINING THE PROPOSAL.**